POLITICAL AND MUNICIPAL LEGISLATION IN 1903[1]

Following the general plan and order of previous reviews in this series, the more important political and municipal legislation of the year may be classified under the following heads: Constitutions, Constitutional Amendments, State Boards and Commissions, Governor, Veto Power, Direct Legislation, Over-Legislation and Special Laws, Legislative Apportionment, Sessions, Legislative Procedure, Direct Election of United States Senators, Suffrage Qualifications, Woman Suffrage, Party Organization, Enrolment, Party Test, Primaries, Direct Nominations, Registration, Voting Machines, Municipal Codes, State Control of Cities and Home Rule, State Supervision of Accounts, Municipal Utilities.

Constitutions.—Connecticut is to make another attempt to revise its constitution which was adopted in 1818. Revision through a constitutional contention having failed, the legislature has proposed a revision in the form of an amendment.

Though the constitution of New Hampshire provides for the submission of the question of calling a convention every seven years, the State is still acting under the constitution adopted in 1792. This constitution has been amended but three times. Constitutional conventions have adopted the plan of submitting to the voters certain specific amendments rather than an entire revision of the constitution. This was the plan followed by the convention which met in December, 1902. The convention proposed ten amendments, of which four were adopted and six rejected at an election held in March, 1903. The amendments adopted related to educational qualifications for voting, qualifications of militia officers, taxation, and combinations in restraint of trade. The example of New Hampshire in resisting the general trend towards voluminous and frequently revised constitutions is noteworthy. Although since the original constitution of 1792 four constitutional conventions have been held, they have restricted their labor to the proposal of a few changes and additions to the original constitution.

[1] This is the Ninth Annual Review of Political and Municipal Legislation published in THE ANNALS. The Review for 1902 appeared in Vol. XXI.; for 1901 in Vol. XX.; for 1900 in Vol. XVII.; for 1899 in Vol. XV.; for 1898 in Vol. XIII.; for 1897 in Vol. XI.; for 1896 in Vol. IX.; and for 1895 in Vol. VII. The first four reviews were prepared by Dr. E. D. Durand; the others by Dr. Whitten.—ED.

The governors of Rhode Island, Georgia, Michigan, Nebraska, and West Virginia recommend the holding of a constitutional convention, and the legislatures of Idaho ('03, p. 456), Michigan ('03, ch. 32), and Nebraska ('03, ch. 165) have submitted this question to vote in November, 1904.

Constitutional Amendments.—Of the twenty-six amendments submitted to the people in 1903, twelve were adopted. Eleven amendments referred to legislatures of 1903 by preceding legislatures were not repassed. Thirteen amendments were referred by the legislatures of 1903 to succeeding legislatures and fifty-seven amendments were submitted to the people to be voted on in 1904.

State Boards and Commissions.—Last year a slight tendency to check the rapid increase in the number of State boards and offices was noted, New York having consolidated a number of boards in 1901 and Massachusetts even more in 1902. In 1903, however, the trend towards multiplication has gone on with scarcely any check. About one hundred new boards and offices were created in the various States. The governors of many States deprecate this trend in their messages. Governor Geer, of Oregon, congratulates the State upon its freedom from a multiplicity of boards and offices. He says, "Oregon has fewer offices than any other State. . . . The four principal State officers control and direct all our public institutions, as well as the vast business connected with our State lands and irreducible school fund, our enormous fishing industry, and other interests." The Oregon legislature of 1903, however, failed to realize the desirability of this condition, and led the other States in the number of new boards created. It created a Board of Inspectors of Child Labor ('03, p. 79), Board of Health ('03, p. 82), Board of Portage Commissioners ('03, p. 108), Veterinary Medical Board ('03, p. 154), Bureau of Labor Statistics and Inspector of Workshops and Factories ('03, p. 205), and Board of Commissioners for licensing sailors' boarding-houses and hotels ('03, p. 238).

Governor.—Tennessee will vote in November, 1904, on an amendment to the constitution increasing the term of the governor from two to four years ('03, p. 532). In Indiana the salary of the governor has been increased from $5000 to $8000 ('03, p. 77), and in Kansas from $3000 to $5000 ('03, p. 240).

Veto Power.—Ohio, one of the three States (Rhode Island, Ohio, and North Carolina) in which the governor has heretofore

had no veto, has adopted a constitutional amendment permitting the governor to veto any bill, *any section of a bill,* or any item of an appropriation bill ('02, p. 962). In Kansas an amendment will be submitted to vote in November, 1904, authorizing the governor to veto items of appropriation bills ('03, ch. 545). Governor Garvin, of Rhode Island, following the lead of his predecessor, Governor Kimball, recommends the granting of the veto to the governor, but the legislature took no action.

Governor Gage, of California, calls attention to the constitutional provision which restricts the time to ten days after the adjournment of the legislature for the approval or disapproval of the numerous bills passed during the closing hours of the legislature. Many States give the governor thirty days in which to act on such measures. In the absence of constitutional amendment remedying the matter, the governor suggests that the legislature pass no bills during the eight or nine days before final adjournment, and holds that these last days could be profitably used in considering resolutions and constitutional amendments, pursuing investigations, and individually advising the governor regarding bills under consideration by him.

Direct Legislation.—Oregon has adopted an act carrying out the provisions of the constitutional amendment adopted in 1902 providing for the initiative and referendum ('03, p. 244). The form of petition and the method of verification of signatures is prescribed. The county clerk is to compare the signatures of the petitioners with their signatures on the registration books and certify the result to the Secretary of State. Signatures not certified as genuine by the county clerk may be accepted on proof as to their genuineness. Any person, committee, or organization filing a petition or opposing the same may furnish the Secretary of State with pamphlets explaining or giving arguments for or against the proposition. All such pamphlets are to be bound with a copy of the proposed measure and sent by the Secretary of State to local officers for distribution at the time of registration to all voters registering.

The initiative may be used to propose and pass constitutional amendments as well as statutes. Under this system a constitutional amendment may be adopted much more speedily than under the other method provided in the constitution. A legislative resolution for a constitutional amendment must be passed by two legislatures

and voted on by the people. This procedure with the system of biennial sessions requires at least five years to secure an amendment. Under the system of the initiative, a petition signed by 8 per cent. of the voters may be presented four months previous to any regular election, and its adoption at that election is final. It therefore takes less than one-fifth as long to secure an amendment under the new system. Massachusetts has referred to the next legislature an amendment applying the initiative to constitutional amendments ('03, p. 583). It is much more cautious, however, in trusting to the new device. The amendment must be proposed by fifty thousand voters, approved by fifteen senators and a majority of the representatives, and adopted by a majority vote of the people at one election and by a two-thirds' vote at a succeeding election. Rejected amendments may not be proposed again for three years, and the amendment as proposed in the petition may be revised by the legislature before being submitted.

Missouri has submitted to vote in November, 1904, a constitutional amendment providing for the initiative and referendum ('03, p. 280), and Nevada has referred to the next legislature a similar proposal ('03, p. 231). The Nevada legislature this year substituted for its peculiar proposal described in last year's review one providing for the initiative and referendum similar in content to those adopted in other States.

Over-Legislation and Special Laws.—The governors of Michigan, California, Colorado, Massachusetts, Oregon, Pennsylvania, Tennessee, and Utah dwell on the evils of over-legislation. During the year October 1, 1902, to October 1, 1903, fourteen thousand three hundred and ninety-four laws and resolutions were passed, and of these but five thousand four hundred and six were general and permanent in character or of sufficient importance as special or temporary enactments to be included in the Summary and Index of Legislation. In comparing statistics of legislation, odd years must be compared with odd and even with even years, as some States have their biennial sessions in odd and some in even years, there being almost three times as much legislation in odd as in even years. During the biennial period 1902–03 nineteen thousand nine hundred and eighty-four laws were passed, and this has been about the average for recent biennial periods.

North Carolina leads in the number of laws passed during

1903 with twelve hundred and sixty-three enactments. The legislature was in session sixty-three days, turning out an average of twenty laws a day. Illinois, on the other hand, was in session one hundred and twenty-one days and passed two hundred and twenty-six laws, or an average of less than two per day. The difference is caused by restrictions upon special legislation contained in the Illinois constitution. The result certainly shows a great gain for the more adequate consideration of general laws. Legislators in States in which there is much special legislation complain that their time is so taken up with the consideration of the numerous special acts required by their constituents that they are utterly unable to give attention to important general measures.

Florida will vote in November, 1904, on a constitutional amendment restricting special legislation ('03, p. 643), and Tennessee on an amendment permitting the legislature to enact local road, fence, and stock laws ('03, p. 532). Governor Gage, of California, thinks that restrictions on special legislation have developed an evil more serious than that of special laws; "while the evil that was intended to be remedied . . . was a very serious one; still the new evil of the enacting of general laws to fit special cases is more serious, and it would be well for this constitutional section to be so amended as to permit necessary exceptions, thereby doing away with this injurious method of legislative evasion." There is doubtless great justice in this criticism. The codes and general laws of many States in which special legislation is prohibited are continually amended to provide for some particular case that should be provided for, if at all, by special enactments. Constitutional restriction is certainly a poor substitute for the greater self-control in these matters exercised generally by British legislatures. Governor Odell, of New York, while deprecating the number of special acts, points out ways in which the legislature may itself apply the remedy. He suggests that the numerous local amendments to the game law can be obviated by a general statute according to boards of supervisors, under the control of the State Forest, Fish, and Game Commission, the right to adopt regulations in conformity with the general statute for their own particular localities. He also sent in a special message calling attention to the numerous special bills passed each year for validating the issue of bonds by localities and recommending that some local

body be vested with power to legalize such bonds without burdening the legislature with their consideration.

Legislative Apportionment.—Since the Federal census of 1900 twenty States have reapportioned representation in both houses of the legislature and fifteen States in either the upper or lower branch. Inequality of representation is still an unsettled problem in Connecticut and Rhode Island. Governor Garvin, of Rhode Island, states that one-twelfth of the inhabitants of the State dwelling in small towns possess more power in legislation than the remaining eleven-twelfths. Governor Chamberlain, of Connecticut, while maintaining that each town should forever have one representative, holds that the larger towns and cities should have representation in some degree proportionate to population. Under the existing provision, each town or city has not more than two nor less than one representative.

Sessions.—Governor Hayward, of South Carolina, advocates a change from annual to biennial sessions. On the other hand, Governor Terrell, of Georgia, testifies to the superiority of the annual session. "Annual sessions of the legislature have made it easy to enact new statutes as well as to amend or repeal old ones, so as to supply omissions or correct defects disclosed by experience, and in consequence we have a system just, simple, and in every way suited to the genius and spirit of our people."

Georgia has changed the date of the opening of its annual session from October to June ('02, p. 66), and California has submitted to vote in November, 1904, an amendment changing the opening of the session from January to February ('03, p. 736).

Legislative Procedure.—In accordance with the suggestion of Governor Bliss, Michigan has submitted to vote in November, 1904, an amendment repealing the limitation on the introduction of new bills to the first fifty days of the session. Governor Bliss states that the only effect of the existing provision has been "to keep the legislature practically idle for fifty days while bills are pouring into the legislative hopper. The House and Senate journals are burdened with hundreds of titles whose only purpose is to nullify the time limit." Following Governor Durbin's suggestion, Indiana has passed an act providing that bills shall be engrossed and enrolled from specially designed type selected by the State Board of Public Printing and copyrighted for the exclusive use of the State ('03, ch. 125).

Direct Election of United States Senators.—During 1903 fourteen States have applied to Congress to call a constitutional convention to consider the election of United States senators by direct vote. Seven of these States had already made the same application in 1901. Up to the present time twenty States have made application to Congress for a constitutional convention; twelve in 1901, one in 1902, and seven new States in 1903. The constitution of the United States provides that on the application of two-thirds of the several States, Congress shall call a convention for proposing amendments. Under this provision the application of ten more States is necessary to secure action by Congress.

An interesting legal point is raised by the fact that Florida adopted a resolution applying to Congress for a convention, but later at the same session rescinded its application. The question is whether a State after once making application can afterwards rescind its action. It will be recalled that New Jersey and Ohio revoked their ratification of the fourteenth amendment and New York of the fifteenth amendment. The legality of this action was not decided, as ratification by these States was not needed to make the necessary three-fourths. Of course, in the case of an application to Congress, Congress would necessarily be the judge as to whether the application were in proper form, and only in case Congress accepted the application could its legality be tested in the courts.

It seems certain that the effect of the proposed change in the mode of selection would have marked effect upon the composition of the Senate. One result would doubtless be to diminish the number of State party leaders and representatives of capital in that body.

Suffrage Qualifications.—New Hampshire adopted, by a vote of twenty-eight thousand six hundred and one to eight thousand two hundred and five, a constitutional amendment providing an educational qualification for voting consisting of ability to read the constitution in the English language and to write. This qualification, however, does not apply to persons sixty years of age on January 1, 1904, nor to any person who now has the right to vote.

Governor Hun, of Delaware, recommends the abolition of the registration fee as a qualification for voting, saying that it has not diminished but rather increased existing evils. In Texas, on the other hand, where the poll tax must be paid many months previous to the election, the results seem to have been in the main satisfactory,

and Governor Sayers recommends legislation to make the amendment more effective.

Woman Suffrage.—The New Hampshire constitutional amendment providing for woman suffrage was defeated by a vote of thirteen thousand and eighty-nine to twenty-one thousand seven hundred and eighty-eight. Governor Toole, of Montana, recommends the submission of the question in that State, and the legislature of Utah adopted a resolution declaring the success of woman suffrage in Utah and urging its adoption in other States ('03, p. 206). The resolution recites that "equal suffrage has been in operation since the advent of Statehood, during which time women have exercised the privilege of voting generally and intelligently, with the result that a higher standard of candidates has been elected for office, elections have been made peaceful, orderly, and dignified, the general character of legislation improved, intelligence in political and civil and social matters much increased, and . . . the women of Utah have not in any sense been deprived of any of their womanly qualities."

Party Organization.—The direct primary law to be submitted to the voters of Wisconsin in November, 1904, contains some novel and interesting changes in party organization. The State Central Committee is to be elected by the candidates for the various State offices and for the legislature nominated at the direct primary. It is to consist of two members from each congressional district and a chairman. The candidates above mentioned are also to meet at the Capitol and formulate the State platform of the party.

The party precinct committee is to be elected at the primary held for the nomination of candidates. This committee consists of three members, and the one receiving the largest number of votes is chairman. The party precinct chairmen of a city, county, or assembly district make up the party committee of division; the chairmen of the assembly district committees form the State senatorial committee; the chairmen of the senatorial district committees form the congressional district committee. At meetings of the city, county, and assembly district committees each precinct chairman has one vote for every fifty votes or major fraction thereof cast by his party.

The new act regulating caucuses in Providence, Newport, and Pawtucket, R. I. ('02, ch. 1078), provides for the annual election

of ward committees. The members of the several ward committees constitute the City Committee. The general management of the affairs of the party is vested in its City Committee subject to the rules and regulations of the State Committee.

One of the great evils in party organization is its complexity. None but the professional politician can keep track of the multiplicity of primaries and conventions required for the nomination of national, State, and local officers. The game of politics consists largely in taking advantage of this complexity. Deals are made and the times of primaries and conventions fixed to defeat the plans of rival factions and the wishes of the great majority of the members of the party. Progress has been made in some States towards fixing a primary day for all parties. A number of States having official primaries hold the primaries of all parties at the same time and place. As yet, however, there has been no legislative attempt towards a uniform day for the meeting of the numerous kinds of conventions—ward, city, township, county, legislative, judicial, congressional, and State. Governor Yates, of Illinois, advocates this much-needed reform. He asks why the ward and township primaries of all parties should not be on a given Monday, the county conventions on the next day, Tuesday, and the State conventions on the next day, Wednesday. He says, "It would keep every politician at home and the colonizer and walking delegate would be out of a job. It would leave every township and county and ward to settle its own affairs, and so give home rule. It would remove from every contest the hampering question of its effect on other contests at other times, and it would compel every county to give up the unprincipled idea of joining the winner at the last moment."

Enrolment.—The Massachusetts law of 1903 (ch. 454), providing for joint caucuses in Boston and in other cities and towns adopting the act, provides an enrolment of party members. At the first primary election held each elector is enrolled with the party whose ticket he receives. An elector may afterwards change his enrolment by making personal application, but such change shall not take effect until after the expiration of ninety days. The political party enrolment of a voter does not preclude him from voting the ticket of any municipal party at a primary.

Maine provides for enrolment in cities and towns of two thousand to thirty-five thousand. An elector may enroll in any party by

filing an application with the clerk of the town. The elector may change his enrolment at any time, but may not vote in any political caucus within six months thereafter. Any elector not previously enrolled may enroll up to the day of the caucus and during the caucus by subscribing to an oath that he is a member of the political party, intends to vote for its candidates in the ensuing election, and has not taken part in the caucus of any other party within six months. Any elector whose right to vote is challenged may be allowed to vote on taking a similar oath.

Nebraska has revised its law relating to party enrolment ('03, ch. 40). In all cities and towns in which there is registration for regular State elections provision is made at the same time for party enrolment. Each elector is asked with which political party he desires to affiliate. A special enrolment is provided for persons who are absent from the city or town at the time of registration or who are prevented from appearing by reason of sickness. Such person must make affidavit of the reasons for failure to register and procure affidavits, sworn to before the city clerk, of two freeholders of the precinct or ward setting forth the facts contained in his affidavit; and in all cases where illness is given as the cause for failure to register the affidavit of some reputable physician is also required.

New York adopted an amendment, applicable to New York City only, prohibiting the transfer of electors from one locality to another by certificates prior to primaries. Governor Odell states that "This power of transferring has been abused in the city of New York by alliances entered into by political leaders of opposite political faith by having a sufficient number of their followers register themselves as being affiliated with the opposite political party for the purpose of influencing contests for party control or for the nomination of candidates at primaries. Of course, this is only done when the leader who desires to aid one of opposite political faith knows that he will have no contest for control in his own district. If the period between the date of registering party affiliation were six or eight months prior to the primaries it would be a preventive in part against the misuse of such powers which can only be used with impunity by a district leader when he is certain that there is to be no contest within his own political party."

Party Test.—Legislatures have been very cautious in prescribing

a definite test of party membership. It is recognized, however, that primary control cannot be made effective unless some definite test is provided. The New Jersey primary law ('03, ch. 248, § 13) requires the challenged elector to swear that he is a member of the party, voted for a majority of its candidates at the last election, and intends to support its candidates at the ensuing election. The primary law for Providence, Newport, and Pawtucket (R. I. '02, ch. 1078), while providing that the party committees may make additional regulations, prescribes that no person shall take part in the caucus of a political party who has taken part in the caucus of any other party within fourteen months, has signed nomination papers for any elective official, or has voted in any election for the candidates of any other party or for candidates placed in nomination by nomination papers. No person who has voted in the caucus of a political party may sign a nomination paper within fourteen months thereafter. These regulations and the unlimited power of the party committees to make additional regulations seem to be devised in the interest of bossism rather than of the best party organization.

The primary law of Idaho ('03, p. 360) makes it unlawful for any person to vote at a party primary who was not affiliated with the party at the last general election. Nebraska provides that no person shall vote at a primary election unless he "shall have in the immediate past affiliated with the political party holding such primary election and generally supported the candidates of such party at the last election" ('03, ch. 40, § 1).

Primaries.—The governors of Arizona, Michigan, Vermont, and New Jersey advocate greater control over party primaries. The governors of Vermont and Arizona recommend that the primaries of all parties be held at the same place and on the same day. In New Jersey a special commission on primary elections was appointed in 1902. The legislature of 1903 enacted a general primary law applying to all primaries for the nomination of candidates at the general election for members of the General Assembly ('03, ch. 248). The primaries of all parties are held on the same day and at the same place and are conducted by the boards of registry and election, the primaries being held on the first registry day. Separate official ballots are prepared for each party. Each elector must ask for the party ticket he desires to vote. Massachusetts also has

provided for joint caucuses or primaries for all municipal or political parties ('03, ch. 454). The act is mandatory in Boston, and the question of its acceptance is to be submitted in the other cities and towns using official ballots.

Direct Nominations.—Progress towards the adoption of the direct nomination system was made in Massachusetts, New Jersey, and Wisconsin. Massachusetts cautiously extends its system of direct nominations to the nominations of representatives in Congress in the Ninth, Tenth, and Eleventh Districts ('03, ch. 450). New Jersey applies the new system to the selection of all candidates to be voted on at the general election for members of assembly by the voters of a single ward or township ('03, ch. 248).

The Wisconsin act is to be submitted to the voters in November, 1904 ('03, ch. 451). Its provisions are more thoroughgoing than those of any similar law previously enacted. It applies to candidates for all elective offices except the office of State superintendent, to town, village, and school district offices, and to judicial offices other than police justice and justices of the peace in cities. Party candidates for United States senator are also nominated by direct vote. Primaries of all parties are held on the same day at the same place and in charge of the regular election officers. Official tickets are provided, there being a separate ticket for each party and also a non-partisan ticket upon which are printed the names of persons for whom nomination papers have been filed and who are not designated as candidates of any political party. These several tickets are fastened together and handed to each elector. The elector marks the ticket of his choice, detaches the same from the remaining tickets, folds and votes it, and deposits the remaining tickets in a separate ballot box.

The governors of Colorado, Illinois, Maine, Montana, and Oregon recommend the adoption of direct nominations. Governor Van Sant states that after a trial of the direct primary election law in Minnesota, "the consensus of opinion seems to be that the law will be a permanent method of nominating candidates for office." He suggests, however, that it would be well to consider whether it will not be wise to amend the law so that the different tickets will appear on one ballot, and the voter will not be required to ask for the ticket of the party with which he desires to vote.

Registration.—The new law regulating elections in St. Louis

has some interesting provisions relating to registration ('03, p. 170). Each applicant for registration is required to sign his name on the registration book or, if unable to do so, to make his mark. This signature may be used as a means of identification when the voter casts his ballot. No person may vote who is not registered, and registration days are seven weeks prior to the election. Any person, however, who is absent from the city at a distance of more than fifty miles or confined to his home by illness or other disability during the days fixed for registration may make personal application and be added to the list on the Wednesday of the first week prior to the election. The governor of New York recommends the adoption of a provision requiring the voter to sign his name on the day of registration as a means of identification on the day of election. The governor of Colorado states that "In cities of the first class there seems to be no limit to false registration and illegal and fraudulent voting," and urges the adoption of a remedy.

Voting Machines.—Governor Murphy, of New Jersey, urges the State to purchase voting machines for the counties. He estimates that this will cost half a million dollars, but asks, "How can the money of the State be so well used as in providing a means by which the corruption of the ballot is made impossible." The legislature made a beginning by authorizing the State Board of Voting-Machine Commissioners to purchase machines with the consent of the governor, to define their location and use ('03, ch. 171), and appropriating $50,000 for this purpose. The governors of Indiana and California recommend the use of the voting machine in order to correct the evil of defective ballots and the resulting disfranchisement of a large number of voters. The legislature of Indiana passed an act making obligatory the use of voting machines in counties containing a city of thirty-six thousand ('03, ch. 154). California and Illinois adopted acts ('03, ch. 226) regulating the use of voting machines and creating a voting-machine commission (Cal. '03, ch. 226; Ill. '03, p. 178). Massachusetts revised its law relating to voting machines and created a Board of Voting-Machine Examiners.

Municipal Codes.—Kansas adopted a general law for the government of cities of the first class ('03, ch. 122). All cities of over fifteen thousand are cities of the first class. Women are permitted to vote at all municipal elections. Elections are held in odd years,

and in cities of less than fifty thousand a mayor, city attorney, city clerk, city treasurer, police judge, and one councilman from each ward is elected for two years. In cities of over fifty thousand the mayor appoints a city counsellor and a police judge, the other officers being elected. The mayor also appoints such other officers as may be created by ordinance, and may remove the same at pleasure. The mayor may veto any ordinance or any item of an appropriation ordinance, and a three-fourths vote is required to pass an ordinance over his veto. The mayor may, with the consent of the council, appoint a city engineer, street commissioner, city assessor, fire marshall, chief of police, policemen, and such other officers as the mayor and council may deem necessary.

New Jersey adopted a general law for the government of cities, which is to be in force, however, only in such cities as adopt it by vote of the electors ('03, ch. 168). At the first general election for the election of municipal officers there shall be elected for two years a mayor, recorder, city treasurer, collector of taxes, overseer of the poor, and one member of the city council from each ward, and also three councilmen-at-large. The mayor's veto may be overridden by a two-thirds vote. The mayor is the head of the police department, and has exclusive power to appoint and remove all policemen, including the chief of police and subordinate officers. The council may establish, regulate, and control the fire department and regulate the appointment and removal of its officers and members.

Virginia adopted a law to harmonize existing statutes with the provisions of the constitution of 1902, which prescribed in considerable detail the organization of cities and towns ('03, ch. 269).

State Control of Cities and Home Rule.—Florida will vote in November, 1904, on a constitutional amendment permitting the legislature to divide municipalities into four classes and provide a uniform government for each class ('03, p. 643).

Ohio rejected in November, 1903, an amendment dividing cities into three classes ('02, p. 117). It will be recalled that the municipal code adopted at the special session in Ohio in October, 1902, provided a uniform government for all cities, municipalities being divided into two classes, all under five thousand being villages, all over five thousand cities.

An amendment is to be voted on in November, 1904, in Illinois, permitting the legislature to pass special laws for the reorganization

of the municipal government of Chicago, such laws to be subject to approval by the electors of the city ('03, p. 358). The present constitution of Illinois practically forbids all special city legislation.

The Oregon legislature repassed a constitutional amendment proposed by the legislature of 1901 providing for general laws for the incorporation of cities and permitting cities to frame their own charters in conformity with general laws without submission to the legislature ('03, p. 346), but no provision has yet been made for the submission of this amendment to the people.

Minnesota has revised its law regulating the framing, adoption, and amendment of charters under the supervision of a board of freeholders ('03, ch. 238). The district court may appoint a charter commission of fifteen freeholders on its own motion or on petition of 10 per cent. of the electors. The charter-commission is a permanent board, the members holding office for terms of four years. The board must submit a draft of a charter within six months. A four-sevenths vote of the electors is required for the adoption of the charter, except in certain cities where a three-fourths vote is necessary. The charter thus adopted may be amended by a proposal made by the charter board and accepted by the electors or on petition of 5 per cent. of the electors filed with the charter board, the board shall submit amendments to a vote of the people. A three-fifths vote is required for adoption of amendments. The charter adopted must be in harmony and subject to the laws of the State and must provide for a mayor or chief magistrate and for a legislative body consisting of either one or two houses. Subject to these limitations and to certain limitations as to public utilities and indebtedness, the charter and its amendments "may provide for any form and scheme of municipal government and may embrace provisions for the regulation, management, administration, and control of all departments of the city government and of all municipal governmental functions."

Washington has provided for direct amendments to self-framed charters ('03, ch. 186). On petition of 15 per cent. of the electors a specified charter amendment shall be submitted to the people, and, if approved by a majority vote, the amendment becomes a part of the charter. This act does not deprive city councils of the right heretofore granted of submitting proposed charter amendments.

Governor Gage, of California, thinks that constitutional guarantees of municipal home rule have gone too far in that State. Constitutional amendments have been adopted which permit municipalities to adopt charters that are submitted to the legislature for approval or rejection as a whole, and are not subject to future amendment by it. The governor says, "While moderate decentralization is essential to municipal liberty, immoderate decentralization leads to disintegration. . . . I regard this excessive growth of municipal power as a peaceful mode of secession from the State and an unconscious blow against the State's integrity and indirectly an unpatriotic assault on national existence."

State Supervision of Accounts.—Florida authorizes the governor to appoint a state auditor, whose duty it shall be to examine the accounts of the State and county officers ('03, ch. 14). He is required to make such examinations at least once a year and to make a report to the governor and to file a copy of the same so far as it relates to county officers with the boards of county commissioners. The State auditor receives two thousand dollars and travelling expenses, and may employ an accountant at a salary of one thousand dollars. It is made the duty of county treasurers, sheriffs, and clerks to keep accounts according to forms prescribed by the State auditor ('03, ch. 71).

Nevada requires counties, cities, and towns to make annual reports to the State Comptroller according to forms prescribed by the State Board of Revenue ('03, ch. 78; '03, ch. 123). The State Board of Revenue may employ an examiner to inspect the accounts of county, city, and town officers.

New York requires mayors and the chief fiscal officers of cities of the second and third classes to make annual financial reports to the Secretary of State according to forms prescribed by him ('03, ch. 347). This act is as yet inoperative, as no appropriation has been made to carry it into effect.

Governor Bates, of Massachusetts, says that good results have been derived from the existing system of State supervision of county accounts, and recommends that a system of uniform municipal accounting be provided for. Governor Bliss, of Michigan, recommends that he be empowered to appoint one of his office force a State examiner of accounts to make an examination of county accounts whenever conditions may require. Governor Richards, of

Wyoming, strongly commends the system of State supervision of county and municipal accounts in that State.

Municipal Utilities.—In Kansas cities of the second and third class are granted power to construct and operate light and gas plants, electric-light plants, electric-power or heating plants, water-works, natural gas wells and petroleum wells ('03, ch. 136). Franchises are limited to twenty years. In Kansas, also, the general law relating to cities of the first class ('03, ch. 122) regulates in detail the granting of franchises, and the purchase, construction, and operation of municipal utilities. Franchises are limited to thirty years, and the mayor and council may at all times during the existence of the franchise fix reasonable rates of public service.

A California law ('03, ch. 86) permits cities under three thousand to acquire, own, and operate "street railways, telephone and telegraph lines, gas and other works for light and heat, public libraries, museums, gymnasiums, parks, and baths."

The new Virginia constitution regulates the granting of franchises, providing, among other things, for the sale of franchises at public auction for a term of not more than thirty years. The legislature has enacted laws carrying out these provisions ('03, ch. 138; '03, ch. 269).

Governor Garvin, of Connecticut, recommends that all grants of franchises be approved by a vote of the people. Arizona and Montana passed laws requiring this. Wisconsin provides that franchises shall not be operative until sixty days from date of passage of ordinance, and if during such period 20 per cent. of the electors petition for a referendum on the ordinance, the ordinance is not operative until submitted and approved by a majority vote ('03, ch. 387). This seems a much more sensible provision than those of the States above mentioned, which made the submission of the franchise to popular vote mandatory. Unless there is a popular demand for the submission of a franchise, the vote of the council should be final.

Maine authorizes cities and towns to establish permanent fuel yards and to sell fuel at cost to inhabitants ('03, ch. 122). Missouri authorizes cities under thirty thousand to erect or acquire plants for furnishing public utilities of any kind ('03, p. 95).

Governor Bates, of Massachusetts, opposes the theory that it is better to exact no payment for municipal franchises, but to re-

quire in place thereof that the money thus saved the corporation be used in furnishing better facilities to the public. He contends that the result of the application of this theory has been to "cause, either directly or indirectly, the capitalization of the value of the franchise in the interests of the stockholder and to the loss of the public." Governor Savage, of Nebraska, takes the ground that exclusive franchises should never be granted, and that public service corporations should not be required to obtain a franchise in order to use public streets for a public purpose. He maintains that there should be free competition in the supply of public utilities and that the consolidation of competing interests should be prohibited.

ROBERT H. WHITTEN.

New York State Library, Albany, N. Y.